

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2008-0110

CEASE AND DESIST ORDER
REQUIRING
THE CITY OF MARYSVILLE
WASTEWATER TREATMENT FACILITY
YUBA COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region (Regional Water Board) finds that:

1. The City of Marysville (hereafter Discharger) owns and operates a wastewater treatment facility (WWTF) in Marysville, Yuba County.
2. The WWTF is regulated by Waste Discharge Requirements (WDRs) Order No. 5-01-071, which was adopted by the Regional Water Board on 16 March 2001.
3. The WWTF serves the City of Marysville and surrounding areas. The WWTF consists of secondary treatment followed by disposal to percolation/evaporation ponds. The facility also has a Tertiary Treatment Unit (TTU) that is designed to treat wastewater to tertiary standards, followed by irrigation of soccer fields.
4. WDRs Order No. 5-01-071 limits influent flows to 1.7 mgd as an average daily dry weather flow, prohibits the discharge of waste to surface waters, imposes limits on the degree of groundwater degradation that the discharge may cause, and requires the Discharger to design, construct, operate, and maintain the facility such that inundation or washout due to flood and/or storm with a 100 year annual return period does not occur.
5. Cease and Desist Order (CDO) No. R5-2004-0072, which was adopted by the Regional Water Board on 4 June 2004, provided the Discharger with a time schedule to make facility improvements and prepare a Feasibility Study and Master Plan Report describing how the wastewater storage and disposal area will be protected from flooding caused by storm events with a 100 year annual return period. The Discharger submitted the Feasibility Study and Master Plan Report on 27 June 2007.
6. A new Cease and Desist Order is necessary to allow time for the Discharger to implement the preferred alternative identified in the Feasibility Study and Master Plan Report. The preferred alternative identified by the Discharger is the development of a regional wastewater treatment facility with the Linda County Water District. Once the regional wastewater treatment facility is operational, the existing wastewater ponds at the City of Marysville WWTF will be decommissioned and closed.

2004 Cease and Desist Order

7. CDO No. R5-2004-0072 was issued after the Discharger failed to submit reports as required under WDRs Order No. 5-01-071 and subsequently failed to submit reports in response to an Order adopted on 23 January 2003 pursuant to California Water Code (CWC) section 13267.
8. The CDO required that the Discharger submit a Feasibility Study Workplan to complete improvements necessary to provide flood protection to the wastewater ponds or submit an application for an NPDES permit. Additionally, the CDO required the Discharger to submit technical reports documenting facility improvements related to capacity and groundwater issues. CDO No. R5-2004-0072 required that the Discharger submit:
 - a. A Groundwater Sampling and Analysis Plan by 1 August 2004.
 - b. A Title 22 Engineering Report for the application of recycled water as required by California Code of Regulations Title 22 Section 60323 by 1 September 2004.
 - c. A Tertiary Treatment Unit Upgrade Report by 1 December 2004.
 - d. A Flow Meter Installation Report by 1 December 2004.
 - e. A Sludge Bed Lining Report by 1 January 2005.
 - f. A Feasibility Study and Master Plan Results Report by 31 September 2006.
9. A number of the reports were incomplete and did not contain the information required by the CDO.

2005 Administrative Civil Liability Complaint

10. On 3 March 2005, the Executive Officer issued Administrative Civil Liability (ACL) Complaint No. R5-2005-0505 for the amount of \$25,000 to the City of Marysville for violations of CDO No. R5-2004-0072. The violations consisted of failing to submit technical reports required by the CDO in a timely manner and for the submittal of reports that were not in compliance with the CDO.
11. On 20 April 2005, the Discharger signed a settlement agreement for ACL Complaint No. R5-2005-0505. The settlement agreement required the Discharger to pay \$15,000 and submit the following reports:
 - a. A Tertiary Treatment Unit Upgrade Report, by 30 May 2005.
 - b. A Flow Meter Installation Report, by 30 May 2005.

- c. A Sludge Bed Lining Report, by 30 July 2005.

Recent Violations of CDO No. R5-2004-0072

12. The Discharger has submitted the progress reports and technical reports required by ACL No. R5-2005-0505. However, the Discharger failed to submit the Feasibility Study and Master Plan Results Report by the 31 September 2006 due date, as required by CDO No. R5-2004-0072. The report was submitted to staff on 27 June 2007; 270 days late.
13. The compliance schedule set forth in this Order incorporates the proposed time schedule from the Feasibility Study and Master Plan Results Report.

Regulatory Considerations

14. As a result of the events and activities described in this Order, the Regional Water Board finds that the Discharger has discharged, and has the potential to discharge, waste in violation of WDRs No. 5-01-071.
15. It is appropriate to establish a new compliance schedule for the Discharger to complete facility improvements necessary to bring the facility into compliance with WDRs Order No. 5-01-071.
16. Because the Discharger anticipates using the existing percolation/evaporation ponds until 2013, it is appropriate to require the Discharger to minimize the amount of wastewater stored in the percolation/evaporation ponds during potential flood events. Thereby reducing the threat to water quality. This Order requires the Discharger to use its Tertiary Treatment Unit to the extent feasible during periods of potential flooding.
17. The Regional Water Board's Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan) designates beneficial uses, includes water quality objectives to protect the beneficial uses, and includes implementation plans to implement the water quality objectives.
18. Surface water drainage is to the Feather River and the Yuba River. The beneficial uses of the Feather River and Yuba River, as stated in the Basin Plan, are municipal and domestic supply; agricultural supply; water contact recreation; noncontact water recreation; warm freshwater habitat, cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; and wildlife habitat.
19. The beneficial uses of underlying groundwater, as stated in the Basin Plan, are municipal and domestic water supply, agricultural supply, industrial service supply, and industrial process supply.

20. CWC section 13301 states, in part: *"When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of the requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action."*
21. CWC section 13267(b) states: *"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."*
22. The required technical reports are necessary to assure compliance with WDRs Order No. 5-01-071 and this Order, and to assure protection of public health and safety. The Discharger owns and operates the facility that discharges the waste subject to this Order.
23. The issuance of this Order is an enforcement action by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to California Code of Regulations, title 14, section 15321(a)(2).
24. On 31 July 2008, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Regional Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order.
25. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, section 2050. The petition must be received by the State Board, Office of Chief Counsel, P. O. Box 100 Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED that Cease and Desist Order No. R5-2004-0072 is rescinded and that, pursuant to CWC sections 13301 and 13267, the City of Marysville, its agents, successors, and assigns, shall in accordance with the following tasks and time schedule, implement the following measures and identify and implement all improvements required to

ensure long-term compliance with WDRs No. 5-01-071 or any superceding permits or orders issued by the Regional Water Board.

Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

1. The Discharger shall comply with all aspects of WDRs Order No. 5-01-071, except for Provision F.9, which states: *"In accordance with Discharge Specification B.9, the Discharger shall implement the approved alternate project which will achieve compliance by 1 April 2006."* This Provision refers to protecting the facility and all wastewater disposal areas from a flood with a 100-year return frequency. The Discharger shall instead comply with the time schedule contained in this Order.
2. By **31 January 2009**, the Discharger shall submit a *Compliance Work Plan*. The work plan shall describe the details of the interagency regionalization agreement between the City of Marysville and the Linda County Water District.
3. By **1 March 2009**, the Discharger shall submit a signed *Interagency Agreement* between the City of Marysville and the Linda County Water District. The Interagency Agreement shall describe the roles and responsibilities of the City of Marysville and the Linda County Water District necessary to develop a regional wastewater treatment facility capable of serving both communities.
4. By **1 April 2009**, the Discharger shall submit a detailed funding plan and implementation schedule for all modifications necessary for the City of Marysville WWTF to send wastewater to the Linda County Wastewater Treatment Plant (LCWTP).
5. By **1 July 2009**, the Discharger shall submit a complete *Facilities Design Report* describing all modifications that will be made to the City of Marysville WWTF and the LCWTP. The report shall contain a time schedule for all modifications.
6. By **1 August 2009**, the Discharger shall submit a *CEQA Report*. The Report shall certify that the Discharger has submitted a CEQA application to the lead agency for review.
7. By **1 March 2010**, the Discharger shall ensure that a Report of Waste Discharge is submitted that includes the City of Marysville within its scope.

8. By **1 April 2011**, the Discharger shall submit a *Pond Closure Workplan* for all wastewater storage and disposal ponds, which are not protected from inundation or wash out due to flood and/or storm inundation with a 100 year annual return. At a minimum the workplan shall include sludge removal and disposal, soils characterization, closure options, and grading plans (if applicable).
9. By **1 December 2013**, the Discharger shall submit a *Facility Construction Completion Report*. The report must certify that all construction and necessary modifications have been made to the LCWTP and the Marysville WWTF, such that wastewater from the City of Marysville can be discharged to the LCWTP. Additionally, the report shall certify that the facility is enrolled under the Sanitary Sewer Overflow Program General Order, administered by the State Water Resources Control Board.
10. **Within 120 days** of the City of Marysville commencing the discharge of wastewater to the LCWTP, the Discharger shall submit a *Pond Closure Report*, that certifies that all wastewater storage and disposal ponds, which are not protected from inundation or wash out due to flood and/or storm inundation with a 100 year annual return have been decommissioned and closed in accordance with the previously approved *Pond Closure Workplan*.
11. **Beginning with the Third Quarter of 2008 and continuing until the wastewater ponds are decommissioned and closed**, the Discharger shall minimize the threat to water quality from potential flood events by maximizing the use of the wastewater ponds on the south side of the Yuba River during months of potential flooding (December through May). During this period, the Discharger shall consistently maintain approximately four feet of freeboard in the higher elevation southern ponds. The lower elevation northern ponds may be used if southern ponds are in danger of exceeding four feet of freeboard. During periods of potential flooding, all wastewater shall be discharged to the southern ponds, up to the limit of two feet of freeboard. Additionally, the Discharger shall minimize the amount of wastewater stored in the wastewater ponds by producing and using tertiary treated wastewater for irrigation of 11 acres soccer fields from 1 May through 30 September each year and to the maximum extent feasible during predicted flood events.
12. **Beginning with the Fourth Quarter of 2008**, the Discharger shall submit *Quarterly Project Status Reports*. The quarterly reports shall describe all work completed during the quarter in response to this Cease and Desist Order. Additionally, the quarterly reports shall clearly state the days and amounts of tertiary treated water produced and applied to the soccer fields. Quarterly project status reports shall be submitted on the first day of the second month following the end of the quarterly (e.g., the Fourth Quarter 2008 report is due by 1 February 2009) and may be combined with the quarterly monitoring reports required by WDRs Order No. 5-01-071. Additionally, the Discharger's December through May monthly monitoring reports required per MRP No. 5-01-071 shall include the following additional information: weekly pond freeboard levels, weekly observation of berm conditions, and weekly volume of wastewater discharged to the southern ponds versus the northern ponds.

All technical reports required herein that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code, sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or the enforcement unit of the Regional Water Board may issue a complaint for administrative civil liability.

Pursuant to CWC section 13350, administrative civil liability may be assessed at \$5,000 per violation for each day in which any violation occurs. The Regional Water Board specifically reserves the right to take any enforcement actions authorized by law.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 31 July 2008.

-Original signed by-

PAMELA C. CREEDON, Executive Officer